

Short literature notices

Roberto Andorno

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S. Negri (ed): *Self-determination, dignity and end-of-life care. Regulating advance directives in international and comparative perspective*. Queen Mary Studies in International Law no 7, Martinus Nijhoff, Leiden, 2012, 480 pp, ISBN 978-90-04-22357-8. Price: € 128

The ethical and legal debate on end-of-life decisions has gained momentum in the past two decades. The book under review focuses on the latter aspect and contributes to an updated understanding of the legal evolution in and outside Europe. The *fil rouge* of the chapters are advance care directives with special regard to advance refusal of life-saving and life-sustaining treatments; euthanasia and assisted suicide; the rights of the terminally ill and dying patients; and the right to die with dignity. The contributions in some cases include European and national developments up to the summer of 2011.

The monograph is divided into three parts. The first is devoted to international and European law. The editor, Stefania Negri, is associate professor at the University of Salerno, Italy, and her chapter analyses the right to informed consent. The essay by Mario J. A. Oyarzábal deals with the international private law aspects of living wills and counts as one of just a few studies in an increasingly important field of conflict of laws, which in itself is far from being solved. Although most of the essays are written in English, three are in French—notably the French and Swiss reports and the analysis of the relevant case-law by the European Court of Human Rights. Despite the overlap of the latter chapter with the following one, in that both deal with the two judgments,

Pretty v. UK and *Haas v. Switzerland*, the approaches and analyses used differ and as such, can be read for an improved and fruitful understanding of the path taken thus far by the European Court.

The second part of the book carries a great interest to those jurists interested in comparative law in that it introduces the reader to the latest development in the vast array of legal systems ranging from the Americas to Australia and from the European jurisdictions to China. Comparison is made difficult by the fact that country specific essays do not follow a common scheme and the book lacks a comparative synthesis of the findings. This, however, could serve to encourage readers to exploit the wealth of information provided and draw their own conclusions. All the chapters are of excellent quality with the Spanish one noteworthy for the annexed table that provides an overview of the national and regional legal norms on advance directives in that country.

The last part of the book dwells upon the Italian bill entitled, “Dispositions in matter of therapeutic alliance, informed consent and advance treatment directives”. It was pushed by the former Berlusconi government and for its paternalistic approach, it raised several ethical and legal issues well beyond the national borders. Although passed by the Chamber of Deputies in July 2011, it has not moved forward since. Given Italy’s current economic troubles taking priority and the sunset over the parliamentary majority that supported the bill, it is unlikely to meet any fate other than “death”. Although this may make the last part of the book less attractive, the essays above all represent an in-depth analysis of the Italian case, which is an example of a satisfactory regulation of living wills essentially based on international and constitutional principles interpreted by case-law.

R. Andorno (✉)
School of Law, University of Zurich, Rämistrasse 74/65,
8001 Zurich, Switzerland
e-mail: roberto.andorno@rwi.uzh.ch

Alexander Schuster
Trento, Italy

C. T. Ronald (ed): *Transhumanism and transcendence. Christian hope in an age of technological enhancement*. Georgetown University Press, Washington D.C., 2011, 232 pp, ISBN: 978-1589017801. Price: US\$ 32.95.

Transhumanism and Transcendence is a theological contribution to the debate about human enhancement that engages primarily with transhumanists. The volume seeks to clarify new challenges given by transhumanists and contrast theological and transhumanist “forms of human yearning for transcendence.” (3)

The collection of 13 essays can be divided into four parts. Chapter 1 introduces the topic of transhumanism and outlines how it is a novel challenge for Christian theology. Chapters 2 and 3 explore some of the historical roots of transhumanism in the Christian tradition. Chapters 4–10 look at what theology can add to the discussion about technology and transhumanism. Finally, chapters 11–13 address the theological challenge raised by new technologies and transhumanism.

After Buddhists and Mormons have engaged with transhumanists (see <http://ieet.org/index.php/IEET/bio/hughes> and <http://transfigurism.org>), this collection brings a Christian perspective. While the collection will help Christians to be informed about human enhancement and transhumanism, it will also be useful for transhumanists to understand what Christianity can bring to this discussion. It corrects some negative assumptions about Christianity and provides an alternative framework when approaching new enhancing technologies.

This volume answers some odd and naïve ideas about Christianity, such as the assumption that religion (in this case Christianity) is irrelevant in considering new technologies. Of course, transhumanists often see Christianity as negative, old-fashioned, and anti-science (134). However, Ted Peters argues that transhumanists are quite naïve about Christianity. He comments, “What the transhumanists think they see in religion is an atavistic commitment to the past, to the status quo, to resistance against anything new” (72). The collection corrects this assumption by showing that Christianity can be pro-science, innovative, and call to co-create and make the world a better place. This has already been the case historically, with for example, the Franciscans’ love of nature and the Christian dedication to helping the sick, with the establishment of hospitals.

Moreover, this book shows how transhumanists share common themes with Christianity: historically, eschatologically and soteriologically. By reminding transhumanists that Christians like Pierre Teilhard de Chardin, Francis Bacon, and N. F. Fedorov have played a major role in shaping some of transhumanist ideas, this collection might help Christians and transhumanists to dialogue and realize that some of their ideas overlap in major ways.

The book also illustrates that Christianity can not only enter the debate over transhumanism, but also challenge it, providing an alternative point of view to the dominant voices. Erik Parens has argued elsewhere that two main frameworks are at play in the debate about enhancement (Towards a More Fruitful Debate About Enhancement, in *Human Enhancement*, ed. J. Savulescu and N. Bostrom, New York: OUP, 2009, p. 181–198). On the one hand, some are from the ‘gratitude framework’ and want to remain as they are. On the other hand, those who are from the ‘creativity framework’ want to alter nature for the better. For Parens, these two frameworks need to be held in tension. Here, the collection shows that Christianity has the tools to keep them in balance. Specifically, the creature-creator anthropological explanation indicates we are both created and called to create. Thus, Christianity is neither one side nor the other of the paradigm given by Parens. For Christians, humans are called to create, but by remaining and knowing they are creatures, they will not fall into the hubristic desiring to master every part of our lives.

However, one important notion is missing in this volume—it does not include theological materials about the relationship between suffering and redemption, or material about the role of suffering in Christian tradition. Because good can sometimes come out of suffering, it would have been interesting to hear what the authors think of the transhumanist drive to eliminate all suffering.

Nonetheless, this collection helps Christians see transhumanists as an intellectually stimulating group, with which they should engage, in part because they both want to make this world a better place and because this discussion involves many potentially religious themes (2). But it will also help transhumanists approach Christianity, and learn about some Christian roots of transhumanist ideologies that are not often discussed. As Eric Steinhart reminds transhumanists, “Christianity is an extremely powerful cultural force in the West, [and] it is imperative for transhumanism to engage it carefully” (Teilhard de Chardin and Transhumanism, in *Journal of Evolution and Technology*, Vol. 20 Issue 1, December 2008, p. 1–22). This volume is an important call to a mutual dialogue between Christians and transhumanists.

Johann A. R. Roduit
Zurich, Switzerland

N. Maillard: *La vulnérabilité: une nouvelle catégorie morale?* Labor et Fides, Genève, 2012, 392 pp, ISBN: 978-2830914238. Price: € 32.50.

In recent years there has been an increasing concern among scholars about the need to shrink the disproportionate role assigned to autonomy in modern ethical reflection. As

Daniel Callahan pointed out in relation to medical ethics, the principle of autonomy has been taken to extremes, playing a pre-emptive and exclusionary function in medicine. He claims that we are wrongfully treating individual autonomy as an absolute right and that the abuse of this principle is overrunning what he calls the “moral commons” in medicine.

The consideration of vulnerability as an inescapable dimension of the human condition seems to be one these “moral commons” in medicine that need to be better explored. In this regard, the volume by the Swiss philosopher Nathalie Maillard represents an excellent contribution to a deeper understanding of this “new” moral concept. Appealing to Levinas, Ricoeur, and Nussbaum, she attempts to complement the “ethics of autonomy” with an “ethics of vulnerability”. While the ethics of autonomy emphasizes our rational abilities and our capacity for moral self-determination, the ethics of vulnerability insists on the fact that we are (also) fragile and dependent on others, and are not always able to act as autonomous moral agents (p. 14).

The volume is divided into two parts. The first one analyzes the meaning and role of the notions of autonomy and vulnerability. After having discussed the history of autonomy in modern philosophy (chapter 1) and the feminist-inspired notion of “relational autonomy” (chapter 2), Maillard criticizes in chapter 3 the simplistic notion of the person that results from Kantian and Rawlsian approaches, which naively assume that the ideal citizen is never sick (Norman Daniels) and forget the non-rational dimension of human beings (Martha Nussbaum). Chapter 4 is focused on the notion of “vulnerable person”, the contribution of the ethics of care, the complex relationship between vulnerability and autonomy, and the normative value of vulnerability.

The second part of the book analyzes the dialectic autonomy-vulnerability in the writings of Paul Ricoeur and Emmanuel Levinas. Maillard points out the strengths and shortcomings of the concepts developed by both philosophers for a better understanding of vulnerability. For Ricoeur, the idea of autonomy cannot be disconnected from the consideration of the vulnerability that characterizes the human person. He emphasizes that moral autonomy is not fully guaranteed from the beginning, but it is only a *possibility*, since human beings are inherently fragile. This is the paradox of the human condition: we are at the same autonomous and vulnerable (p. 248). For Levinas only the awareness of our responsibility for the other allows us to overcome our egoism and marks the entry into the field of ethics. The incarnated condition of the other (especially his face), experienced as vulnerability, is the cornerstone of the Levinasian approach.

In sum, Maillard’s volume is an excellent contribution to the efforts made in recent years by various scholars to

question the excessive and almost exclusive emphasis on autonomy that characterizes modern moral philosophy. The scope of the book is certainly not to exclude autonomy from moral analysis, but to complete and enrich it with a broader and more realistic view of the human person, which also takes into account her vulnerable condition and inherent fragility.

Roberto Andorno
Zurich, Switzerland

A. Vieth, C. Halbig and A. Kallhoff (eds): *Ethik und die Möglichkeit einer guten Welt. Eine Kontroverse um die „Konkrete Ethik“*. Walter de Gruyter, Berlin, 2008, 359 pp, ISBN 978-3110202700. Price: € 94.95.

This volume is presented as a debate on Ludwig Siep’s ambitious book ‘Konkrete Ethik’, published in 2004 by Suhrkamp. It consists of twenty contributions by distinguished scholars and an extended reply by Siep. In his book, Siep attempts to reclaim what he sees as the holistic foundation and structure of morality, criticising the tendency in moral philosophy to focus exclusively on the rights and duties of humans. The ultimate good is the world as a whole, he argues, and the good world is characterized by the values diversity (‘Mannigfaltigkeit’), naturalness, flourishing and justice. These values are to be applied to specific problems—not by deduction, but by concretizing them in the light of the relevant features of the problems. Siep does not shy away from working out the implications of his holistic approach for specific problems in the field of applied ethics. And unlike many others, he thoroughly underpins his approach by methodological and metaethical explanations.

Similar to the ambitious program of the ‘Konkrete Ethik’, the alphabetically arranged contributions range from traditional questions about the structure of moral theories to questions of applied ethics and metaethical and methodological topics. In the following, just a few issues will be looked into.

Several of the essays discuss Siep’s substantial holism and his selection of fundamental values. Especially contested is his assertion that only a holistic ethics will be able to cope with the normative challenges we currently face. In the ethics of nature, for example, there exist quite subtle anthropocentric (and pathocentric) attempts to reconstruct the concern for nature as a whole as well as for non-human entities. This aspect is of great importance: holism implies a priority of the whole over its individual parts, for example of a species over its members. Whereas Siep admits this implication in relation to non-humans, he rejects its application on humans. But it is not obvious that he is able to justify this distinction sufficiently.

Siep also advocates a methodological holism. More than a mere coherentism, it basically follows the idea of a reflective equilibrium as proposed by John Rawls. At the same time, Siep defends the reality and objectivity of values. The tenability of a realistic metaethical position in general is questioned by more than one of the contributors. Furthermore, its compatibility with Siep's methodological holism is not evident.

The teleological structure of the 'Konkrete Ethik' prompts some critical remarks, too. It is questioned, for example, if it is possible to distinguish between recommendations and duties in a teleological framework. A classical objection maintains that with this framework, Siep is not able to do justice to the concept of justice itself.

Most of the essays can be read profitably even by those not familiar with Siep's work. For this reason, the volume is not only helpful for readers especially interested in the 'Konkrete Ethik'. It provides the reader with a stimulating overview over some of the most fundamental ethical issues.

Hubert Schnüriger
Basel, Switzerland

L. Caenazzo and R. Pegoraro (eds): *Biobanks in the Mediterranean Area. Procurement, storage and transfer of tissue and cells for non-clinical purposes in the Eastern Mediterranean Area: legal and ethical perspectives*. Proget Edizioni, Padova, 2011, 210 pp, ISBN 978-88-88785-25-7. Price: € 14.

Much has been written on the use of human tissues for research purposes in recent years. This book consists of 15 contributions that have been presented at an international and interdisciplinary workshop organized in the framework of the Tiss.EU Project in Padova in 2009. The book is a rich source to learn more about legal and ethical issues concerning procurement, storage and transfer of tissue and cells for non-clinical purposes in selected Eastern Mediterranean countries, such as Greece, Cyprus, Malta, Slovenia and Italy.

The volume is divided into three sections: The first section gives an introduction to the state of the art regarding the procurement, storage and transfer of tissues

and cells for non-clinical research purposes in biobanks (Scientific point of view by A. Rosolen; European Networks by M. Agostini; Legal point of view by A. Schuster; Ethical point of view by E. Gefenas/V. Dranseika). The second section covers five country reports on biobanking in Greece (A. L. Hager-Theodorides), Cyprus (M. A. Cariolou), Malta (P. Mallia), Slovenia (A. Mlinar) and Italy (L. Caenazzo). All country reports are based on the same set of questions in order to identify similarities and differences between national laws, ethical guidelines and the impact of EU legislation. The third section is dedicated to focus on specific issues of general public interest and therefore deals with a broad range of topical key issues, such as ethical and legal aspects of human tissue research and biobanking in Europe (K. Beier/C. Lenk/N. Hoppe), the safeguarding of minors in biobanks for medical research in Italy (P. Tozzo), the fight against terrorism and data protection (P. Bard), a new donation and application option with regard to the procurement and distribution of ocular tissues for non-clinical purposes (S. Ferrari/G. Jones/C. Griffoni/D. Ponzin), an ethical overview on biobanks for non-clinical purposes (C. Porteri) as well as ethical issues in genetic research with regard to the transfer of tissues and data protection (C. Petrini).

Overall, the volume provides the interested reader with a diversified introduction of specific issues at stake in the field of procurement, storage and transfer of human tissue and cells for non-clinical research purposes in Greece, Cyprus, Malta, Slovenia and Italy. In particular, the country reports provide a unique insight in existing legal and ethical frameworks and display, by comparison, major country-specific differences as to the level of legislation and regulation. It appears that, as in many other countries, too, consent and data protection issues remain crucial concerns. Due to its interdisciplinary focus, this volume will be accessible to readers from different disciplines. However, it is striking that the linguistic proofreading has not been done carefully at various points, including the book title.

Bianka S. Dörr
Zurich, Switzerland